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E-Filed on 9/21/07

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC, Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**STIPULATION RE WITHDRAWAL
OF PROOF OF CLAIM NO. 10725-
00260 FILED BY DAVID E.
GACKENBACH REVOCABLE
TRUST**

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

The USACM Liquidating Trust (the "USACM Trust"), by and through its undersigned counsel, and David E. Gackenbach Revocable Trust ("Claimant"), stipulate:

1. Claimant filed a Proof of Claim ("Claim") No. 10725-00260 on October 3, 2006, in the amount of \$100,000.00.

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1 2. On August 23, 2007, USACM Trust notified Claimant of discrepancies with
2 respect to the Claim and gave Claimant the option to correct the discrepancies or withdraw
3 the Claim.

4 3. Claimant notified the USACM Trust that Claimant wants to withdraw the
5 proof of claim filed in this case.

6 Therefore, the parties stipulate and agree that Claimant withdraws proof of claim
7 No. 10725-00260 filed on October 3, 2006, in the amount of \$100,000.00 and no further
8 notice shall be given to Claimant. Claimant will receive no distribution from the USACM
9 Trust on account of the Claim, but this does not affect any payments Claimant may be
10 entitled to receive from the current or future servicing agent on pending Direct Lender
11 loans from current or future Borrower loan payments.

12 DATED: September 21, 2007

13 **LEWIS AND ROCA LLP**

14 By: /s/ RC (#6593)

15 Susan M. Freeman, AZ 4199 (*pro hac vice*)

16 Rob Charles, NV 6593

17 Counsel for USACM Liquidating Trust

18 -and-

19 DATED: Sept 1, 2007.

20 

21 David E. Gackebach on behalf of
22 David E. Gackebach Revocable Trust

23 12240 N. 128th Place
24 Scottsdale Az 85255
25 Address /
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